

Peter Gibbons (CBN: 196169)
Suite E
1805 North Carson Street
Carson City, NV 89701-1216
Telephone: 480-599-7876
LawDr1@lawdr.us
Attorney for MyMail, Ltd.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT'S MOTION TO DISMISS COMPLAINT

Pursuant to 28 U.S.C. § 2201, Defendant MyMail, Ltd., a Texas limited partnership, (“MyMail”) hereby notifies all parties that on _____ (*date to be determined by the court*) at 1:30 PM (*or such other time as the court may determine*) at the Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, Room 2112, San Jose, California, the defendant¹ will move this court to dismiss Plaintiffs Ebates Performance Marketing, Inc. D/B/A Rakuten Rewards (“Ebates”) and

¹ The Court's general practice in civil cases is to (1)..., and (2) to decide law and motion matters on the parties' filings without a hearing. In light of Covid19, when the Court holds a civil case management conference or law and motion hearing anytime before and including August 31, 2020, those proceedings will be held by telephone or videoconference. During this time, parties need not file motions to appear by telephone. For telephonic or videoconference proceedings, the Court will post the information on how the public and press may participate on the case dockets and the Court's public calendar.

1 Cartera Commerce, Inc's ("CCI's") Complaint, which seeks declaratory judgments of
2 non-infringement as to four (4) MyMail patents.

3 As set forth more fully in MyMail's supporting memorandum of law, Ebates and
4 CCI filed this action in bad faith during active licensing discussions, only after
5 inducing MyMail to agree to a stay of any enforcement of the patent and requesting
6 MyMail to refrain from any contact with customers of Ebates and CCI.

7 Further, Ebates has failed to plead any fact that would confer personal
8 jurisdiction over MyMail upon this court under FRCP Rule 4(k) or any other law or
9 rule.

10 Consequently, this Court should decline to exercise its declaratory judgment
11 powers and dismiss the Plaintiff's Complaint, which was merely a bad faith tactical
12 maneuver in an attempt to secure an advantageous but improper venue.

13 The facts and authorities in support of this motion are set forth in the
14 accompanying memorandum of law.

15 Respectfully submitted,

16 This, August 14, 2020

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Peter Gibbons
20 Attorney for MyMail, Ltd.
21 Law Office of Gibbons & Associates
1805 North Carson Street, Suite E
Carson City, Nevada 89701-1216
22 775-434-1856 Ph.
775-276-6927 Fax
23 LawDrl@lawdr.us

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California, by using the court's CM/ECF system on August 14, 2020.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: August 14, 2020

Peter Gibbons
Peter Gibbons
Attorney for MyMail, Ltd.